



DUKE UNIVERSITY

TERRY SANFORD INSTITUTE
OF PUBLIC POLICY

RECEIVED

AUG 28 1995

DOCKET FILE COPY

DOCKET FILE COPY ORIGINAL

FACULTY OFFICES
BOX 90245
DURHAM, NORTH CAROLINA 27708-0245

TO LEAVE MESSAGE: (919) 684-6612
FAX: (919) 681-8288

August 24, 1995

Dear Federal Communications Commission Secretary,

Enclosed are an original and nine copies of the comments I would like to submit for inclusion in the record of MM Docket No. 93-48. Thank you for considering these comments.

Sincerely,

James T. Hamilton
Director, Duke Program on
Violence and the Media

No. of Copies rec'd
List A B C D E

049

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)

DOCKET FILE COPY ORIGINAL

Policies and Rules Concerning)
Children's Television Programming)

MM Docket No. 93-48

Revision of Programming Policies)
for Television Broadcast Stations)

RECEIVED

AUG 28 1995

DOCKET FILE COPY ORIGINAL

COMMENTS OF
PROFESSOR JAMES T. HAMILTON
DUKE PROGRAM ON VIOLENCE AND THE MEDIA

Professor James T. Hamilton
Director, Duke Program on
Violence and the Media
Box 90245, Duke University
Durham, NC 27708
919-613-7358; jayth@pps.duke.edu

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED
AUG 28 1995
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Policies and Rules Concerning)
Children's Television Programming) MM Docket No. 93-48
)
Revision of Programming Policies)
for Television Broadcast Stations)

COMMENTS OF
PROFESSOR JAMES T. HAMILTON
DUKE PROGRAM ON VIOLENCE AND THE MEDIA

I. Introduction

In its Notice of Proposed Rulemaking released on April 7, the Commission invited comment on how to "improve the public's ability to monitor a licensee's specific efforts to provide more programming specifically designed to serve the educational and informational needs of children."¹ This comment urges the Commission to provide the public with access to a computerized database containing information on a station's educational programming for children and other indicators of station performance. This would allow local viewers, community groups, and other interested parties such as nonprofit organizations to monitor the behavior of a station and compare its performance to similar stations within a given market and across markets. The collection of station information in a computerized database would lower the transaction costs of using the information and thus facilitate monitoring of station compliance with the Children's Television Act of 1990.

II. Information as a Regulatory Tool

In an era of increasing distrust of "command and control" approaches to regulation, legislators and regulators have turned to information provision as a regulatory tool to influence behavior. The Commission's proposed rule would require stations to identify programs specifically designed to serve the educational and informational needs of children when they are aired, provide the information to program guide publishers, and provide more information in the reports in the station's public inspection file. Information provision would be more effective, however, if station compliance information were also made available in a standardized form and maintained in a FCC computer database accessible to the public. This would lower the transaction costs to individuals seeking information on a station's educational programming. It would also facilitate comparisons across stations and markets, which would make monitoring studies by nonprofit organizations easier to conduct. The net impact of the data provided by stations would be greater if monitoring by individuals and organizations were facilitated by computer access.

A close parallel to the program of information provision suggested by the Commission is the Environmental Protection Agency's Toxics Release Inventory (TRI) program. Over 20,000 manufacturing facilities have annually reported since 1987 their releases of toxic chemicals into the environment. The data have become the yardstick by which communities measure firms' commitment to pollution reduction, investors monitor toxic emissions, and regulators identify potentially hazardous facilities. When the data were first released, companies reporting high emissions experienced statistically significant negative impacts on their stock prices.² Pressures from communities and investors led firms to engage in more pollution reduction activities once their emission totals become public. Facilities that were more hazardous

were more likely to reduce their emissions overall.³ Though only two-thirds of the plants which should have filed TRI reports did so in the early years of the program, the vast majority of pollution was covered by the reports that were filed and those plants that did not file tended to do so out of ignorance rather than evasion.⁴ Overall, releases of toxic chemicals tracked in the TRI dropped 35 percent between 1988 and 1992.⁵

Under the TRI program, firms have filled out standardized forms or submitted diskettes with standardized reports on pollution emissions. The EPA has facilitated public use of the information by releasing the data on computerized tapes, diskettes, and CD-ROM versions. Local citizens can access the information through CD-ROM or printed versions on deposit at local libraries. A nonprofit in Washington DC, the Right to Know Network, also maintains the TRI data in a format accessible to the public by modem and has combined the information with other data from government environmental programs. Overall, the EPA's provision of information in a computerized format has meant that more attention has been focused on the emissions tracked in the TRI program than on pollution tracked in other environmental programs where the data are not as easily accessible.

III. New Information Provision Requirements

To facilitate comparisons across stations, the Commission could devise a standardized form for a station to report its compliance with the Children's Television Act of 1990. The form could be designed so that the agency could scan the information on children's educational programming into a database; stations could also be given the option of submitting the information electronically. Sample data fields could include show name, day(s) and time(s) aired, length, and age group(s) at which the program is aimed. The Commission could have a

list of educational programming goals the station could indicate a particular show met. In addition, a comments field could allow the station to provide additional information about the show. The information could be accessible from the FCC home page, so that individuals could determine the record of the stations in their area. A centralized database would also allow researchers to compare performance of stations across market. The current system which permits stations to adopt many different ways to report how their programming meets the requirements of the Children's Television Act and the filing of the data in separate station files at the Commission has hindered the study of station behavior. Nonprofit groups such as the Right to Know Network might also provide computer access to a version of the FCC's data, which they could combine with additional information about stations.

IV. Existing Information the FCC Could Provide

The Commission currently has data on station performance they could provide to the public that would supplement the information to be collected under this rulemaking. The Commission has data on ad overages on children's television shows from its own audit efforts, maintains a computerized database on the fine records of stations (including fines relating to children's television), and retains in hard copy and computerized formats station employment data on Equal Employment Opportunity issues collected through Form 395-B. Although theoretically the Freedom of Information Act could provide the public with a way to get such data, the Commission's historical position with respect to these data have been to reject requests for electronic copies of this information.⁶ This information could be combined by viewers and researchers with the new data requested under the CTA so that patterns of behavior could be analyzed across stations and markets. For example, are stations that violate children's television

ad limitations also those that provide low amounts of educational programming? Do stations that perform poorly in EEO issues also disregard the public interest standards of the CTA? These are the types of questions that could be analyzed if the FCC were to open its own records in a way that would facilitate public access.

V. Conclusion

If provided with information about the content of television programming, parents will act to change the viewing habits of their children.⁷ The current proposed rulemaking would provide parents with even more information about program content by requiring stations to indicate which children's shows are meant to be educational. The Commission could increase the incentives for stations to comply with the spirit and letter of the Children's Television Act if they made ex post monitoring of station behavior easier. A standardized reporting form and a centralized computer data set made available to the public would allow viewers, community groups, and nonprofits to compare the performance of stations across markets. Greater scrutiny by these groups would in turn provide stations with enhanced incentives to comply with the CTA.

In earlier debates over regulatory policy, the Latin phrase "Quis custodiet ispos custodes" was used to raise the question of "who will watch the watchers." The Commission's current proposal would turn back monitoring responsibilities to the true watchers, television viewers. The Commission could make this monitoring easier if it provided the public with a computerized data set on children's educational television programming and opened access to its own records on station performance in related areas.

1. Notice of Proposed Rule Making. In the Matter of Policies and Rules Concerning Children's Television Programming. Revision of Programming Policies for Television Broadcast Stations, MM Docket No. 93-48, April 7, 1995, p. 15.

2. James T. Hamilton, "Pollution as News: Media and Stock Market Reactions to the Toxics Release Inventory Data," Journal of Environmental Economics and Management, January, 1995, pp. 98-113.

3. James T. Hamilton, "Information Provision and Pollution Reduction: Does Pollution Reporting Lead Firms to Consider the Risks of Their Pollutants?," Working Paper, Sanford Institute of Public Policy, Duke University, Durham, North Carolina.

4. John Brehm and James T. Hamilton, "Noncompliance in Environmental Reporting: Are Violators Ignorant, or Evasive of the Law?," forthcoming, American Journal of Political Science.

5. United States Environmental Protection Agency, Office of Pollution Prevention and Toxics, 1992 Toxics Release Inventory, EPA 745-R-94-001, April, 1994, p. 182.

6. I filed Freedom of Information Act requests to obtain information on children's ad overages and to request electronic data on stations fines and EEO performance. The Commission's response on the children's ad overages was that the list of stations violating ad limits had been lost, so that the only recourse would be to look in individual station files at FCC headquarters. For the fine data, the agency took the position that it did not have to provide an electronic copy of its data under the FOIA. I obtained a printout of a subset of fines from the data, but no fines under the Children's Television Act were reported in the data provided. The Commission had announced multiple fines under the CTA, but these had apparently not been entered in the database yet. The FOIA for the EEO data has gone unacknowledged and unanswered for over six months. These examples demonstrate the resistance of agency personnel to the provision of data in an electronic form, which would facilitate the monitoring of station performance.

7. See James T. Hamilton, "Marketing Violence: The Impact of Labeling Violent Television Content," Dewitt Wallace Center for Communications and Journalism Working Paper Series, Terry Sanford Institute of Public Policy, Duke University. This statistical study of ratings information indicates that parents have acted when provided with viewer discretion warnings. Specifically, primetime network movies had approximately 222,000 fewer children aged 2-11 in their audiences if they carried viewer discretion warnings.